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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,540	06/23/2003	Kimmo Tuomainen	915-005.065	1200

4955 7590 08/11/2010  
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EXAMINER
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TRAN, MYLINH T

ART UNIT	PAPER NUMBER
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2179

MAIL DATE	DELIVERY MODE
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08/11/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/602,540

**Applicant(s)**

TUOMAINEN ET AL.

**Examiner**

MYLINH TRAN

**Art Unit**

2179

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 April 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-11, 13-27, 29, 30 and 32-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-11, 13-27, 29-30, 32-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ ~~Notice of Informal Patent Application~~
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Applicant's Amendment filed 04/28/2010 has been entered and carefully considered. Claims 1, 2, 4, 11, 19, 20, 22, 23, 24, 25, 26, 27, 30, 40 have been amended. However, the limitation of the amended claims have not been found to be patentable over prior art of record and newly discovered prior art, therefore, claims 1-4, 6-11, 13-27, 29-30 and 32-45 are rejected under the new ground of rejection as set forth below.

#### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o).

Claims 22-23 recite "computer readable storage structure" being objected for falling to provide antecedent basis for these terms in the specs.

Claims 24, 25 recite "storage medium" being objected for falling to provide antecedent basis for these terms in the specs.

Correction of the following is required:

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 21 and 29 are rejected under 35 U.S.C 101 because the claimed invention is directed to non-statutory subject matter.

Claims 21, 29 direct to an apparatus comprising software per se. Software per se is not one of the four categories of invention and therefore, claims 21,

29 are not statutory. Software per se is not a series of steps or acts and thus, is not a process. Software per se is not a physical article or object and as such is not a machine or manufacture. Software per se is not a combination of substances and therefore, is not a composition of matter.

***Claim Rejections - 35 USC § 112***

Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 30, the term "means for" is not described in the specs.

Regarding claim 30, the word "means" is preceded by the word(s) "means for" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-11, 13-27, 30 and 33-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Rowe et al. [US. 5,623,613].

**As to claims 1, 19, 22 and 24**, Rowe et al. teach displaying a plurality of selection elements (figure 4, "Shopping", "Sports", "Comedies"...); activating one of the plurality of selection elements (figure 4, the element "Sport" is selected), and displaying a magnified version of the active selection element along (figure 6, "Sport" element is magnified along with four auxiliary elements up, down, right arrows) with at least one auxiliary element (Figure 6, "Sport" element with four arrows: up, down, right arrows (auxiliary elements)); wherein the at least one auxiliary element is hidden from the selection element prior to said activating (before the user activates (selecting) the "Sport" element, the auxiliary elements up, down, left and right arrows are hidden from the "Sport" element as disclosed in figures 4,6).

**As to claims 2, 20, 23 and 25**, Rowe et al. teach displaying a submenu (figure 4, multiple selectable elements ("Auto Racing", "Baseball", "Basketball", "Bowling", "Football") for the active selection element ("Sport" selection element) along with the active selection element (figure 6, multiple selectable items displayed along with the "Sport" selection element).

**As to claim 3**, Rowe et al. teach activating an element of said submenu and displaying an auxiliary element on the active element of the submenu (figures

7-8, the auxiliary element on the active element of the submenu: four arrows up, down, left and right of the "Basketball" element).

**As to claim 4**, Rowe et al. teach the at least one auxiliary element being not displayed along with the non-active selection elements (the up, down, left and right arrows as disclosed in figure 7 being not displayed along with the non-active selection element "Football").

**As to claim 6**, Rowe et al. teach at least one auxiliary element including a plurality of navigation aids indicating possible navigating directions for activating another selection element other than said active selection element (figure 6, "Sport" element has two auxiliary elements including two navigation arrows: up and right, one of the navigation aids indicating possible navigating direction activating another selection element like "Special" element (figure 6)).

**As to claim 7**, Rowe et al. teach at least one of the at least one auxiliary element, displays a selectable function (all the auxiliary elements such as right arrows (of "Sport" element) in figure 8 are the selectable functions because they are selected to navigate to another selectable element in figure 8).

**As to claim 8**, Rowe et al. teach the selectable function being accessible via a shortcut (figure 8, the selectable function arrow is the selection symbols which form a shortcut menu. These selection symbols indicate the functions which can be used quickly).

**As to claim 9**, Rowe et al. teach at least one of the at least one auxiliary element being located close to an identifier of the active selection element (figure 6, the right arrow is closed to the identifier of the element "Sport").

**As to claims 10 and 18**, Rowe et al. teach an identifier of the selection element is at least one the following: an icon, an object, a figure, a text, or a cell of a menu (figure 6, icon "arrow").

**As to claim 11**, Rowe et al. teach an electronic device configured to perform at least a plurality of operations (figure 3); a graphical user interface, configured to display a plurality of selection elements (figure 4, "Shopping", "Sports", "Comedies"...); activate one of the plurality of selection elements (figure 4, the element "Sport" is selected), and wherein said apparatus is configured to display a magnified version of the active selection element along (figure 6, "Sport" element is magnified along with four auxiliary elements up, down, right arrows) with at least one auxiliary element on said graphic user interface (Figure 6, "Sport" element with four arrows: up, down, right arrows (auxiliary elements);

wherein the at least one auxiliary element is hidden from the selection element prior to said activating (before the user activates (selecting) the "Sport" element, the auxiliary elements up, down, left and right arrows are hidden from the "Sport" element as disclosed in figures 4,6).

**As to claim 13**, Rowe et al. teach the at least one auxiliary element comprising navigation aid indicating the possible navigating direction (figure

6, "Sport" element has two auxiliary elements including two navigation arrows: up and right, one of the navigation aids indicating possible navigating direction).

**As to claim 14**, Rowe et al. teach the apparatus being configured to display a submenu (figure 4, multiple selectable elements ("Auto Racing", "Baseball", "Basketball", "Bowling", "Football") being considered as submenu) for the active selection element on said graphic user interface ("Sport" selection element).

**As to claim 15**, Rowe et al. teach the at least one auxiliary element comprising a selection aid indicating a selectable function (all the auxiliary elements such as right arrows (of "Sport" element) in figure 8 are the selectable functions because they are selected to navigate to another selectable element in figure 8).

**As to claim 16**, Rowe et al. teach the selection aid being a shortcut menu (figure 8, the selectable function arrow is the selection symbols which form a shortcut menu. These selection symbols indicate the functions which can be used quickly).

**As to claim 17**, Rowe et al. teach the active selection element comprising an identifier of the active selection element (figure 6, icon "arrow"); and an auxiliary element and said identifier are located close to said active selection element (figure 6, the right arrow is closed to the identifier of the element "Sport").



**As to claim 21**, Rowe et al. teach a graphical user interface (column 6, lines 60-67), a function of the interface being to present various menus (figure 4, "Shopping", "Sport", "Comedies", ...), and one or more selection elements presented via the interface (figure 4, "Shopping", "Sport", "Comedies", ...), at least one selection element comprising an auxiliary element (figure 6, the "Sport" element comprising three auxiliary element arrows: up, down and right) and only an active selection element comprising a visible auxiliary element (Figure 6, the active selection element "Sport" comprising at least a visible auxiliary element: right arrow; wherein said visible auxiliary element is configured to navigate to another selection element that becomes the next active selection element (figure 6, the right arrow is configured to navigate to another selection element that becomes the next active selection element "Basketball"; wherein the interface is configured to hide said auxiliary element in the active selection element upon navigating to said next active selection element (before the user activates (selecting) the "Sport" element, the auxiliary element up, down, right arrows are hidden from the "Sport" element as disclosed in figures 4, 6) and to display a newly visible auxiliary element in said next active selection element (the next active selection element "Basketball" comprises the newly visible auxiliary elements: right arrow as disclosed in figure 4); wherein said apparatus is configured to display a magnified version of the active or next active selection element

along with said auxiliary element on said interface (figure 6, the "Sport" element is a magnified version).

**As to claim 26**, Rowe et al. teach a graphic user interface (column 6, lines 60-67); a processor configured to display a plurality of selection elements on said graphic user interface (figure 4, "Shopping", "Sport", "Comedies"...); a processor configured to allow a user to activate one of the plurality of selection elements (figure 4, "Sport" element is selected); a processor configured to display a magnified version of the active selection element (figure 6, "Sport" element is magnified along with three auxiliary elements) along with at least one auxiliary element on said graphic user interface (figure 6, "Sport" element with the right arrow); wherein the at least one auxiliary element is hidden from the selection element prior to said activating (wherein the at least one auxiliary element is hidden from the selection element prior to said activating (before the user activates (selecting) the "Sport" element, the auxiliary elements up, down, left and right arrows are hidden from the "Sport" element as disclosed in figures 4,6).

**As to claim 27**, Rowe et al. teach displaying a submenu (figure 3, Auto Racing", "Basketball", "Baseball", "Bowling"...each represents for a submenu) for the active selection element ("Sport" is the selection element) along with the active selection element (figure 3, multiple above submenus displayed along with the "Sport" selection element).

**As to claim 30**, Rowe et al. teach means for performing at least a plurality of operations; means for displaying a plurality of selection elements (figure 3, plurality of elements "Shopping", "Special", "Sport", "Talk Shows", "Comedies"); means for activating one of the selection elements (figure 4, the element "Sport" is selected) and means for displaying a magnified version of the active selection element along with at least one auxiliary element (figure 6, "Sport" element is a magnified version) of the active selection element along with at least one auxiliary element (the right arrow is located in "Sport"); wherein the at least one auxiliary element is hidden from the selection element prior to said activating (wherein the at least one auxiliary element is hidden from the selection element prior to said activating (before the user activates (selecting) the "Sport" element, the auxiliary elements up, down, left and right arrows are hidden from the "Sport" element as disclosed in figures 4,6).

**As to claim 33**, Rowe et al. teach the at least one of auxiliary element comprising at least one selection aid indicating a selectable function (figure 6F-6G, the C50 has the auxiliary element (arrow) comprising the navigation arrow indicating the displayed submenu (6G) being the selectable function).

**As to claim 34**, Rowe et al. teach at least one of the at least one auxiliary element (figure 6, the right arrow is located on "Sport") is a navigation aid that is configured to navigate to said submenu (the right arrow is a navigation aid that is configured to navigate to the submenu "Basketball").

**As to claims 35 and 38,** Rowe et al. teach the at least one auxiliary element including a plurality of navigation aids indicating possible navigating directions (figure 6, the up, down and right arrows being considered as plurality of navigation aids indicating navigating directions to the "Basketball" element) for activating another selection element other than said active selection element ("Basketball" element is another selection element other than said active selection element "Sport") and wherein at least one of said auxiliary elements is located near said identifier (figure 6, the arrow is closed to the identifier (arrow icon) of the element "Sport").

**As to claim 36,** Rowe et al. teach the interface being configured to display a submenu ("Basketball" submenu) with respect to the active selection element ("Sport"), the submenu comprising a plurality of selection elements (the submenu comprising plurality of selection elements "NBA Seattle vs Phoenix" and "NCAA Illinois vs Indiana").

**As to claims 37 and 39,** Rowe et al. teach the at least one auxiliary element including a plurality of navigation aids indicating possible navigating directions for activating another selection element other than said active selection element and wherein at least one of directional indicators is configured to navigate to said submenu (figure 6F, C50 has two auxiliary elements including two navigation arrows: up and down to navigate to the submenu Cc6, figure 6C).

**As to claim 40,** Rowe et al. teach displaying a plurality of selection elements (figure 6, "Shopping", "Special", "Sport", "Talk Show", "Comedies"...); activating one of the plurality of the selection elements (figure 6E, "the Sport" is selected); displaying a magnified version of the active selection element along with an associated submenu (figure 6, "Sport" element is magnified along with an associated submenu "Basketball").

**As to claim 41,** Rowe et al. teach the magnified version of the active selection element (the Sport element) being displayed along with said plurality of selection elements (other selection elements "Shopping", "Special", "Talk Shows").

**As to claim 42, Rowe et al.** teach the submenu including a plurality of selection elements (figure 6, the submenu including a plurality of selection elements "NBA Seattle vs Phoenix" and "NCAA Illinois vs Indiana").

**As to claim 43, Rowe et al.** teach displaying at least one auxiliary element in said submenu (figure 4, the submenu "Basketball" includes one auxiliary element right arrow).

**As to claim 44, Rowe et al.** teach the at least one auxiliary element including navigation aids (figure 6, "Sport" element has two auxiliary elements including three navigation arrows: up, down and right, one of the navigation aids indicating possible navigating direction activating another selection element like "Special" element (figure 6).

**As to claim 45, Rowe et al.** teach the at least one auxiliary element including selection aids (figure 6, "Sport" element has two auxiliary elements including three navigation arrows: up, down and right, one of the navigation aids indicating possible navigating direction activating another selection element like "Special" element (figure 6).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rowe et al. in view of Smethers [2004/0142720].

**As to claim 29**, Rowe et al. fail to teach said apparatus being a personal digital assistant. However, Smethers teaches a hand-held wireless communication device (figure 2). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to combine modify the computer system to be the hand-held personal digital assistant. Motivation would have been to save the memory and to be easy to carry around.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rowe et al.

**As to claim 32**, Rowe et al. fail to teach continuing to display a substantially unmagnified version of said active selection element while displaying said magnified version of the active selection element. However, it would have been obvious that the substantially unmagnified version of the "Sport" element is displayed at the same place with the magnified version of "Sport" element. Motivation would have been to help the user to easily recognize a bigger size of a new version element.

#### **Response to Arguments**

Applicant's arguments with respects to claims 1, 2, 4, 11, 19, 20, 22, 23, 24, 25, 26, 27, 30, 40 have been considered but are moot in view of the new ground of rejection.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mylinh Tran. The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM at 571-272-4141. The fax phone numbers for the organization Where this application or proceeding is assigned are as follows: 571-273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mylinh Tran  
Art Unit 2179

/TuyetLien T Tran/  
Examiner, Art Unit 2179



